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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,919	09/12/2003	William J. Taylor	P-8059.00	8345
27581	7590	08/07/2006	EXAMINER	
MEDTRONIC, INC. 710 MEDTRONIC PARK MINNEAPOLIS, MN 55432-9924			KRAMER, NICOLE R	
			ART UNIT	PAPER NUMBER
			3762	

DATE MAILED: 08/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/661,919

Applicant(s)

TAYLOR ET AL.

Examiner

Nicole R. Kramer

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 August 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See attached. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attached.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

ARK
8/3/06

DETAILED ACTION

Response to Amendment

1. The amendment submitted 8/2/06 is not entered. Since the amendment presents additional claims without canceling any finally rejected claims it is not considered as placing the application in better condition for appeal. See MPEP 714.13.
2. However, Examiner notes that the proposed amendment to claims 1 and 65 are acceptable as placing some of the claims in better form for appeal and thus would be entered on the filing of an appeal if filed in a separate paper containing only such amendments.

Response to Arguments

3. Applicant's arguments filed 8/2/06 have been fully considered but they are not persuasive.
4. Specifically, Applicant first argues that "a first connector for electrically coupling and mechanically coupling" the first end of the terminal with an electrical contact coupled to the electrical components of the IPG is not necessarily present in Seifried. Examiner respectfully disagrees. Although the IPG is not shown in the figures, Seifried discloses that the ferrule of the feedthrough assembly extends into the container of the IPG for the purposes making electrical connection between the bottom end of the pin 12 and the electrical contents thereof (see col. 2, lines 24-34). An electrical connection between the bottom end of the pin and the electrical contents of the IPG necessarily

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requires mechanically coupling the bottom of the pin and the electrical contents (that is, an electrical connection necessarily requires at least some amount of mechanical engagement in order to electrically connect the components, although the opposite is not true - a mechanical engagement does not require an electrical connection in order to mechanically connect the components). Further, Examiner considers applicant's examples (that an electrical connection may be made with a conductive adhesive or a metallurgical joint such as solder) to mechanically and electrically couple the terminal pin to the electrical contact.

5. Applicant also argues that the statements made on pages 8-9 admit that crimping devices and spring devices exist, but has not admitted that crimping and spring devices are both well known in the art for ensuring an electrical connection between terminal pins and electrical contacts. Examiner respectfully disagrees. Applicant's discussion at pages 8-9 indicates that both crimping and spring devices are known for making an electrical connection (for example, see statement at page 8 that crimping is among the easiest and the least expensive of mechanical methods for joining terminal with other wires or cables). Further, Applicant's discussion of spring devices at page 9 indicate that spring devices are known to be utilized for making an electrical connection between two components. Therefore, Examiner maintains that it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to utilize either a crimping or a spring device as the connector because the selection of any connector in order to ensure an electrical connection between the terminal pin and the electrical contact would be within the level of ordinary skill in the art.

6. Finally, Applicant argues that the motivation to combine Seifried, Stevenson, and Dahlberg. Both Seifried and Stevenson relate to controlling oxidation growth of feedthrough assemblies. Seifried discusses that electrical feedthroughs used in electrical medical devices may be susceptible to electromagnetic interference, and thus typically the feedthrough contains a capacitor for shunting away EMI (see col. 1, lines 17-39). However, Seifried is directed to solving the problem of oxide growth on the terminal pin because such oxide growth can act as an insulator instead of a conductor, and thus affect the conductivity of the pin lead and its ability to make good electrical connections (see col. 1, lines 40-56).

As Applicant suggests, Dahlberg relates to a feedthrough structure that can be used in unipolar and bipolar pacemakers. Since Seifried and Stevenson relate primarily to the feedthrough structure, they are silent as details relating to the connection between the feedthrough structure and the IPG circuitry. Thus, Dahlberg is cited as evidence for the statement that it is well known in the art to utilize a second connector for electrically coupling and mechanically engaging the ferrule outer surface with the pacemaker circuitry in order to enable the pacemaker to operate in an unipolar mode (that is, the housing, which is attached to the ferrule, of the pacemaker is utilized as the ground electrode in electrical stimulation of the heart). Examiner maintains that it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to utilize the feedthrough assembly of Seifried et al./Stevenson et al. in a pacemaker which operates in a unipolar or bipolar stimulation mode, such as that disclosed in Dahlberg. Therefore, it would have been obvious to one having ordinary

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skill in the art at the time of applicant's invention to modify the feedthrough assembly of Seifried et al./Stevenson et al. such that a second connector electrically and mechanically connects the ferrule outer surface to the circuitry of the pacemaker as taught by Dahlberg et al. in order to enable the pacemaker to function in a unipolar stimulation mode, thereby requiring only one stimulation electrode for pacing the heart.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicole R. Kramer whose telephone number is 571-272-8792. The examiner can normally be reached on Monday through Friday, 8 a.m. to 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 571-272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


NRK
8/3/06


George Manuel
Primary Examiner